

**ONEIDA COUNTY PLANNING & ZONING
MARCH 29, 2006 – 2:30 P.M. PUBLIC HEARING – COMMITTEE ROOM #2
ONEIDA COUNTY COURTHOUSE
RHINELANDER WI 54501**

Members present: Chairman Gary Baier
Patricia Peters
Ted Cushing
Frank Greb
Scott Holewinski

Department staff present: Karl Jennrich, Zoning Director
Pete Wegner, Assistant Zoning Director
Steve Osterman, Planning Manager
Kurt Bloss, Land Use Specialist
Mary Bartelt, Typist III

See Attached Guest List:

Call To Order:

Chairman Baier called the meeting to order at 2:30 p.m., in the County Board Room, Second Floor of the Oneida County Courthouse in accordance with the Wisconsin Open Meeting Law.

Discussion/decision to approve the agenda

MOTION: (Frank Greb/Patricia Peters) to approve the March 29, 2006 Public Hearing agenda and to also move Item #6 as the first item to be discussed. All “aye” on voice vote. Motion carries.

Ordinance Amendment #02-2006 Chapter 15, Subdivision Ordinance submitted by the Town Board of Crescent, Attorney John Hogan, agent, to impose a moratorium on all new subdivision and land divisions in the Town of Crescent for a period of time not to exceed six (6) months. A subdivision of land exempt from formal review will not be affected by said moratorium pursuant to Chapter 15, Oneida County Subdivision Control Ordinance.

Karl Jennrich, Zoning Director, read the Notice of Public Hearing into the record and offered proof of publication from the Rhinelander Daily News, published on March 14, 2006 and March 21, 2006. The Notice was posted on the Oneida County Courthouse Bulletin Board on March 10, 2006. Mr. Jennrich noted that the notice recipient list was part of the record and was available for review. The certified and first class mailing list was read into the record.

Mr. Jennrich read the following correspondence into the record:

1. Letter received from John Hogan – Mr. Jennrich read the letter

Mr. John Hogan explained that this should not take any longer then 6 months for finish. Two of three Board members and the Town Clerk of the Town of Crescent presided. Mr. Hogan explained that they have had some problems with subdivisions and have resolved those problems with great effort. The Town of Crescent also has a Planning Committee who will be working with the Town Board to draft the resolutions. Under consideration are lot sizes and perhaps 5- acre minimums, but this is not etched in stone. Road specifications are also being discussed as to whether or not to increase the standards for the town roads, which currently exist. If more roads are added the Town of Crescent will need more trucks and more employees. The Town of Crescent adopted its own moratorium in November and December of 2005 and obviously would like to do this in a way, which is legally proper and the county could assist the town in doing that. This is why the Town of Crescent would like a moratorium for six months. These 6 months would start from when the county adopts it.

Steve Osterman, Planning Manager, presented Ordinance Amendment #02-2006 Chapter 15, Subdivision Ordinance to the committee.

Staff recommends approval with these conditions:

Chairman Baier asked if anyone wished to speak for or against Ordinance Amendment #02-2006 Chapter 15, Subdivision Ordinance.

Chairman Baier asked a second time if anyone wished to speak for or against Ordinance Amendment #02-2006 Chapter 15, Subdivision Ordinance.

No one came forward.

2:40 P.M. The public hearing was closed from any further public comment.

MOTION: (Ted Cushing/Frank Greb) to approve the subdivision moratorium Ordinance Amendment #02-2006 for the Town of Crescent as per Item #6 on today's Public Hearing agenda. Roll Call vote: Scott Holewinski "aye" Frank Greb "aye" Patricia Peters "aye" Ted Cushing "aye" and Gary Baier "aye". 5 ayes, motion carries.

Conditional Use Permit Application for Holy Family Parish for a new Parish facility on property located in Section 6, T39N, R7E, in the Town of Woodruff, PIN# WR 86.

Karl Jennrich, Zoning Director, read the Notice of Public Hearing into the record and offered proof of publication from the Rhinelander Daily News, published on March 14, 2006 and March 21, 2006. The Notice was posted on the Oneida County Courthouse Bulletin Board on March 10, 2006. Mr. Jennrich noted that the notice recipient list was part of the record and was available for review. The certified and first class mailing list was read into the record.

Mr. Jennrich read the following correspondence into the record:

1. Town of Woodruff – Letter dated March 1, 2006 – approval of CUP however, granting approval the Woodruff Town Board request contingencies on this CUP as follows:

1. The outdoor lighting for the facility be held to the minimum allowed by Code. Let this lighting be downward, bollard lighting.
2. Also a contingency contract with language which would hold Holy Family Parish responsible if any needed future road improvement costs be that a need for traffic signals, turn lanes, etc. for a fixed period following the beginning of operations at the church. This request is being made because Holy Family Parish is being constructed without solid knowledge of future traffic counts on to these roadways (Rudolph Road, Woodruff Road and County J).

Kurt Bloss, Land Use Specialist, presented the Conditional Use Permit application for a new Parish facility on property located in Section 6, T39N, R7#, in the Town of Woodruff. This property is zoned Single Family Residential and is a permitted use with the application of this CUP. Thirty acres of vacant land is proposed as the construction site for this new facility. The outdoor operations include an outdoor cathedral, a summer picnic and festival grounds and extensive parking areas. Indoor operations include a chapel, business offices, classrooms, kitchens, parish hall and a possible future gymnasium. EXHIBIT #1

Town Concerns:

Town concerns include downward bollard lighting for outdoor lighting. Secondly, would be completing a contingency contract, which would require a fixed period of responsibility for possible road improvements that may be warranted. Specifically, the Town has made this request since future traffic counts haven't been studied for this project.

If the Committee finds the standards have been met and recommends approval of this application, staff would suggest the following conditions be place on the CUP.

1. The nature and extent of the conditional use shall not change from that described in the application and approved in the Conditional Use Permit.
2. Dumpster's to be screened if utilized.
3. Sign permit (s) to be obtained prior to placement as needed.
4. Outdoor lighting shall be directed downward/shielded.
5. Town of Woodruff conditions/concerns.
6. Proper permits to be obtained as needed prior to any construction or excavation (Town, County and State)
7. Subject to obtaining and conforming to state approved building plans
8. Subject to obtaining and conforming to DNR storm water permits and conditions.

Chairman Baier asked if anyone wished to speak for or against the Conditional Use Permit application.

Chairman Baier asked a second time if anyone wished to speak for or against the Conditional Use Permit application.

No one came forward.

2:50 P.M. The public hearing was closed from any further public comment.

MOTION: (Patricia Peters/Ted Cushing) believe that the General Standards have been met and to approve Conditional Use Permit Application for the Holy Family Parish in Woodruff, Item #3 on today's Public Hearing agenda with any concerns outlined by staff. Roll Call Vote: Frank Greb "aye" Scott Holewinski "aye" Patricia Peters "aye" Ted Cushing "aye and Baier "aye". 5 ayes, motion carries.

Rezone Petition #03-2006 submitted by Tom Kuczmarski, owner, to rezone land from #15 Rural Residential Zoning District to #07 Business (B-2) Zoning District for property described as Part of the NE SE and part of the SE NE in Section 27, T37N, R10E, in the Town of Stella as depicted on Genisot & Associates drawing #10861.

Karl Jennrich, Zoning Director, read the Notice of Public Hearing into the record and offered proof of publication from the Rhinelander Daily News, published on March 14, 2006 and March 21, 2006. The Notice was posted on the Oneida County Courthouse Bulletin Board on March 10, 2006. Mr. Jennrich noted that the notice recipient list was part of the record and was available for review. The certified and first class mailing list was read into the record.

Mr. Jennrich read the following correspondence into the record:

- a. Letter from the Town of Stella - dated 9/19/2005 – approved
- b. Letter from Richard Kraus – dated 3/26/2006 – opposing the rezone

Steve Osterman, Planning Manager, presented Rezone Petition #03-2006 to the committee. Mr. Osterman read the General Standards to the committee. EXHIBIT #2

Chairman Baier is excused from the meeting for a brief time. 3:01 P.M.

Staff recommends approval.

In Chair Baier's absence, Patricia Peters asked if anyone wished to speak for or against Rezone Petition #03-2006.

Patricia Peters asked a second time if anyone wished to speak for or against Rezone Petition #03-2006.

Scott Holewinski asks the question, "The one opposing letter mentioned lights, where would the entrances, it wouldn't be on the corner where the property owner lives anyway, right?"

Mr. Osterman, "Actually, County Highway took a vision triangle there and the lighting will have to be regulated with screening or shades and those concerns will be mitigated to Mr. Kraus with the CUP, if it becomes a gas station/convenience store."

3:03 P.M. The public hearing was closed from any further public comment.

MOTION: (Scott Holewinski/Ted Cushing) to approve Rezone Petition #03-2006, as presented. Roll Call Vote: Scott Holewinski “aye” Frank Greb “aye” Patricia Peters “aye” and Ted Cushing “aye” with 1 absent vote. 4 ayes, motion carries.

Rezone Petition #04-2006 authored by Theodore Simon, owner, Linda Fay, agent, rezone land from #02 Single Family Zoning District to #03 Multiple Family Zoning District for property located on Upper Post Lake and being further described as part of Gov’t Lot 3, Section 35, T35N, R11E, Town of Schoepke, PIN# SC 694-5.

Karl Jennrich, Zoning Director, read the Notice of Public Hearing into the record and offered proof of publication from the Rhinelander Daily News, published on March 14, 2006 and March 21, 2006. The Notice was posted on the Oneida County Courthouse Bulletin Board on March 10, 2006. Mr. Jennrich noted that the notice recipient list was part of the record and was available for review. The certified and first class mailing list was read into the record.

Chair Gary Baier resumes the meeting. 3:05 P.M.

Mr. Jennrich read the following correspondence into the record:

- a. Letter from the Town of Schoepke dated March 8, 2006 – no objection to rezone.
- b. Letter from James Stuart – dated March 18, 2006 – supports the Rezone
- c. Letter dated March 23, 2006 from Linday Fay, Eliason Realty Regarding the tabling of Rezone #04-2006 and to be rescheduled at a later date.

Chair Baier asks if the committee would agree to suspend the public hearing could they open a public hearing now and just recess the public hearing and then complete it at a later date.

Karl Jennrich, “Yes.”

Scott Holewinski, “But if we take public input now and Linda Fay brings something new back to the committee which was not said at today’s public hearing, how can we?”

Mr. Jennrich, “If it changes, it would have to be re-noticed.”

Mr. Holewinski, “What part of this has to be resolved?”

Mr. Jennrich, “That I don’t know, they are just requesting that it be tabled.”

Attorney Mike Bloom represents some neighboring landowners, not the people who are petitioning for the rezone.

Chair Baier open the meeting up for public comments so that the remarks can be a part of the record.

Attorney Mike Bloom, attorney with Eckert, Kost and Vocke Law Firm, which has been retained by Mr. James and Barbara Olson, a neighboring land owner. "In the event that what the property owners are attempting to do is merely set up something where they can rent out a separate dwelling on their property on a short term basis, my clients may not oppose that or some sort of action by the county or town, whether it be some form of conditional use permit or whatever, they might not oppose that." "On the other hand there is information which they received and also Mr. Ostermann has received, that there may be a real estate transaction involved here where the property would be transferred to another party who has some other ideas about what they want to do with the property and that is a different situation." "It's the rezoning that my clients oppose and from my point of view as a lawyer there is a very straight forward argument that on legal grounds what is requested here is that one parcel be rezoned for either a specific purpose that the owners want to use it for or for purposes of facilitating a real estate transaction." "From my clients point of view that would be an example of illegal spot zoning and that it's something that is being done for an individual parcel owner, not being done for a public benefit and under those circumstances the law states that this is not an appropriate exercise of discretion by legislative body, such as yourselves."

"Now in event that this matter is tabled and that sometime down the line some other proposal is put forward which doesn't involve rezoning the parcel but otherwise might permit the owners to make use of it in a manner that they want to, my client's might very well be agreeable to something like that." "But they do object to rezoning of the property and that opens up to who knows on down the line, anything within the rezoning and my clients oppose that." "All the land around the Northern part of Upper Post Lake which is in Oneida County is zoned single family/residential, to my understanding, and there are other part in the Town of Schoepke that are multiple family, but all the land on Post Lake is zoned Single Family." "For those reasons, based on our position, it would be illegal spot zoning and that the committee should deny the petition to rezone."

Linda Fay, Eliason Realty, "They could be agreeable to that too, they don't have to have it rezoned to multiple family, they just want to be able to rent the cottage." "This is why my clients wanted to table this, because they want to try to work out some kind of agreement with their neighbors prior to bringing this in front of the Planning & Zoning Committee."

Mr. Karl Jennrich, "We cannot support the rezone." "They can rent out the cottage for 30 days at a time only, not weekly, etc."

Mr. Holewinski, "Theoretically, if they (applicant) could get more people involved and in favor of the rezone, then they could rezone."

Chairman Baier asked if anyone wished to speak for or against Rezone Petition #04-2006.

Chairman Baier asked a second time if anyone wished to speak for or against Rezone Petition #04-2006.

Chair Baier asks Mr. Osterman's recommendation.

Mr. Osterman, "Well, I would encourage the committee to give the applicant a time-out to see if they can work out some of the issues." "I don't know if we would change our position, but if they can work it out or return it back to the town, as well." "The town approved this, but were unaware of neighboring objections."

Mr. Holewinski, "The only thing is if they want to come back to rezone a parcel, do we have to have a new public hearing?"

Mr. Jennrich, "Yes, if they would change the boundaries." "And if that is the case, we would recommend that this rezone be denied and send it on to the county board and then they could re-file a new one." "But again, they want it tabled for a period of time."

Chair Baier, "Well is there anything wrong with tabling this if something can be worked out -----."

Mr. Holewinski, "Even though we table it, and she (the applicant) comes back and says, well we worked with some neighbors and we want to do this, we cannot approve this rezone anyway based on that and then she would have to reapply for one down the road if she can get some neighbors in it because it is the wrong rezone area for the public hearing."

Mr. Jennrich, "The other thing, I know that we've talked about past ordinances for single families for short term rentals and the committee basically stated, NO."

More discussion took place.

Mr. Ted Cushing, "We should deny this rezone based on the fact that it is a spot zone." "If she can in turn work something out with neighbors, that has to come back and it has to come back in the form of a new public hearing."

Scott Holewinski to Linda Fay, "So if we deny it today and the applicant can get a defined area to rezone larger than a couple of lots."

Ms. Fay, "Does she have to reapply just to get some kind of permission to be able to rent it, like a conditional use just to rent?"

Chair Baier, "No, the zoning district would allow it, but you cannot get a conditional use permit, but if the zoning would be changed you could get it."

Mr. Osterman, "You have to get the zoning right and then you can apply for the permit."

Mr. Jennrich, "With considering the denial of this rezone, looking 9.86 under changes of amendments, it would be 9.86 F the General Standards when reviewing the petition the committee and county board shall consider the following:

1. Whether the change is in accordance with the purpose of this ordinance
2. Whether the change is consistent with land use plans of the county, the affected town and towns adjacent to the affected town
3. Whether conditions have changed in the area that justify the change proposed and petitioned
4. Whether the change would be in a public interest

5. Whether the character of the area or neighborhood would be adversely affected by the change
6. Whether the use is permitted by the change would be appropriate in the area
7. Whether the town board or the town in which the change would occur approves of the change
8. The size of the property that is subject to the proposed change
9. Whether the area to be rezoned is defined by recognizable or clearly definable boundaries such as those found in USGA lands, office survey maps or recorded plats
10. The position of affected landowners

Mr. Jennrich, "So basically, the appellants and committee are basically stating that they do not believe that the change is in accord with the purpose of the ordinance. It's just for a specific property owner not for the benefit of the neighborhood." "The Town of Schoepke does not have a land use plan but again the area in question on both Langlade and Oneida County primarily single family residential." "We have not seen any examples of whether conditions have changed in the area to justify the change and again most of property on Post Lake is still being used as single family/residential." "Whether the character of the area or neighborhood would be adversely affected by the change and again staff feels that it could be because of the fact that if you are going from single family to business type use, it's multi-family, it's not in accord with the neighboring land use that is already there." "The town board has approved it, so you do have concurrence of the town board, but the P & Z staff does not believe that the size of the property, we believe 100% that it is a spot zone, at least the property in question." "And again the affected landowners stated by Mr. Bloom is that they are opposed again to that rezone for a multi-family rezone."

MOTION: (Ted Cushing/Frank Greb) to deny Rezone Petition #04-2006, offered by Theodore Simon, owner, Linda Fay, agent, to rezone from Single Family to Multiple Family in the Town of Schoepke, Item #5 on today's Public Hearing agenda based on the testimony heard and believe that 9.86 F have been met. Roll Call Vote: Roll Call Vote: Frank Greb "aye" Scott Holewinski "aye" Patricia Peters "aye" Ted Cushing "aye and Baier "aye". 5 ayes, motion carries.

Adjourn

3:25 P.M. There being no further matters to lawfully come before the Committee; a motion was made by Ted Cushing second by Scott Holewinski to adjourn the meeting. All "aye" on voice vote. Motion carries.

Chairman Gary Baier

Karl Jennrich, Zoning Director